

PHYSICIANS LICENSING BOARD
MINUTES
NOVEMBER 8, 2006

CONDUCTING: George Pingree, MD Chair

CONVENED: 8:45 a.m.

ADJOURNED: 12:50 p.m.

MEMBERS PRESENT: Stephen Lamb, MD
Michael Giovannello, MD
John Bennion, public member
Lori Buhler, public member
Sharon Weinstein, MD
Marc Babitz, MD
George Pingree, MD
Curtis Canning, MD
Mason Stout, MD.

MEMBERS EXCUSED: Richard Sperry, MD
James Fowler, MD

DIVISION STAFF: Diana Baker, Bureau Manager
Craig Jackson, Division Director
Shirlene Kimball, Secretary

GUESTS: Irene Gayheart, Investigator

TOPIC OF DISCUSSION:

DECISIONS/RECOMMENDATIONS:

OCTOBER 11, 2006 MINUTES: Approved with corrections.

AGENDA REVIEW BY DIANA BAKER: Ms. Baker reviewed the agenda with Board members. She indicated that Dr. Anderson will be scheduled to meet with the Board next month.

Ms. Baker reported Dr. Carson is out of compliance with the Hawaii Order because of unauthorized travel and for non-payment of urine screen fees.

DIVIDED INTO GROUPS AT 9:05 A.M.

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GROUP I
MINUTE TAKER: DIANA BAKER:

Members present: Dr. Weinstein, Dr. Stout, Dr. Canning, Ms. Buhler and Dr. Babitz.

DARRELL ANDERSON, MD
PROBATION INTERVIEW:

Dr Anderson did not appear for his scheduled meeting. He had called Ms. Baker the evening before the meeting stating that he would not be able to attend. Board members present were very concerned about the behavior pattern that Dr. Anderson has shown through his probation by delaying scheduled meetings, not complying with requests from the Board regarding documentation of his methodology for prescribing medications, tardiness and delinquent reports.

Board members reviewed the personal medications that Dr. Anderson has prescribed to him. It was noted that a nurse practitioner is prescribing his personal controlled substances, and an MD is providing him with other medications. Therefore, Board members would like Ms. Baker to send a letter to Dr. Henry and Ms. Walker requesting information regarding his diagnoses, consultations, and any pain contracts that would provide additional information for the Board in making decisions regarding Dr. Anderson's ability to practice safely.

It was also noted that his supervising physician, Dr. Carmela Javellana, has not responded to the July 2006 letter asking for a more detailed accounting of Dr. Anderson's practice. Therefore, Board members requested that another letter be sent to Dr. Javellana requesting this information. If she

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does not respond to that letter, she is to be called in personally to attest to matters regarding Dr. Anderson's practice. Board members also discussed the need to require Dr. Anderson to be evaluated under the impaired physician citation. This will be presented to the total Board for a decision. Dr. Anderson is not in compliance with his Order.

ALEXANDER THEODORE, MD
PROBATION INTERVIEW:

Dr. Theodore was contacted by telephone in Oklahoma. He stated he is doing well, is not working and does not plan to return to practice. He is in compliance with his Order.

MIA CARSON, MD
PROBATION INTERVIEW:

Dr. Carson was contacted by telephone in Hawaii. She had notified Ms. Baker earlier that she had been out of compliance with the Hawaii Medical Association regarding unauthorized travel and non-payment of her urine screens. This has all been resolved. She stated she is doing well with her recovery and is enjoying working with her sponsor and sponsee. Her recovery has become a major part of her life and she is attending many different meetings. Reports have been submitted and are up to date. Dr. Carson is in compliance with her Order.

GROUP II
SECRETARY: SHIRLENE KIMBALL

Members present: Dr. Giovanniello, Dr. Bennion, Dr. Pingree and Dr. Lamb.

STANTON BAILEY, MD
PROBATION INTERVIEW:

Dr. Giovanniello conducted the interview. Dr. Bailey stated he is doing very well. He attends three meetings per week and would like to maintain that schedule at this time. He stated

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he is no longer attending aftercare and Board members requested Dr. Bailey have the therapist submit a letter of completion. Dr. Bailey stated he has been sober 2 years and 8 months. He indicated he works 40-60 hours per week. Dr. Bailey is in compliance with the terms and conditions of his Order.

JUDY ENGEN, MD
PROBATION INTERVIEW:

Dr. Giovanniello conducted the interview. Dr. Engen submitted her AA, PIR and therapist reports. She stated she is struggling with depression and is having a hard time studying for the SPEX examination. Dr. Engen indicated she has decided to take the exam in March. Dr. Engen is in compliance with the terms and conditions of her Order.

ALLEN NAYLOR, MD
PROBATION INTERVIEW:

Dr. Lamb conducted the interview. Dr. Naylor stated he is struggling with his addiction. He indicated he has had recent boundary issues with co-workers; however, no patients were involved. He stated he discussed the situation with his wife and his therapist and it was determined he needed to work in an area where he would be less likely to become emotionally involved with the people around him. He indicated he decided to resign from the hospital and is looking for a position in an area that is out side of a care giving setting. He stated he last worked at Logan Hospital on August 9, 2006 and is now working for a landscaping company. He indicated this addiction will be a life long problem for him and he is currently attending two 12-Step meetings per month and meets with his therapist every other week. Dr. Naylor stated he is discouraged, but feels he needs

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to be completely honest with his family, the board and his therapist. He stated he wants to keep his license and questioned whether or not completing scout physicals and doing volunteer work would keep his probation going? Board members will discuss this issue with the full Board. Board members indicated Dr. Naylor would be scheduled to meet with them in three months. Dr. Naylor is out of compliance with the terms and conditions of his Order because he has not submitted the therapist report from Todd Olsen.

RECONVEND TO FULL BOARD:

COMMITTEE REVIEW:

Darrell Anderson: Dr. Canning made a Motion to have Dr. Anderson complete a physical and psychiatric assessment within the next 30 days, and to have the evaluations submitted 30 days after the evaluation. The evaluations need to address Dr. Anderson's ability to practice safely and to address current medical problems and medication use. In addition, Dr. Anderson needs to be informed that his supervisor has not responded to the Board and to send Dr. Anderson a letter listing all issues that puts him out of compliance with the terms and conditions of his Order. Dr. Bennion seconded the Motion. All Board members in favor. Dr. Weinstein made a Motion to contact the supervisor, Dr. Javellana with a follow up letter indicating she has a responsibility to respond to the Board. The Motion was seconded by Dr. Babitz. All Board members in favor. If Dr. Javellana does not respond, she will be invited to meet with the Board.

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Dr. Carson: Dr. Carson is now in compliance with the Hawaii Medical Board.

Dr. Naylor: Dr. Naylor is not practicing medicine at this time. He last practiced on August 9, 2006; however, he indicated has performed several boy scout physicals. He stated he would like to keep his medical license and questioned whether or not volunteer hours would be accepted and if so, how many hours he would need to work to keep the probation going. Dr. Babitz stated supervision is necessary and volunteer hours should only be accepted if they were supervised and the supervisor submitted a report. Dr. Weinstein stated the Board has allowed other physicians on probation to work in certain situations without supervision. Dr. Canning stated that because of the nature of Dr. Naylor's problem, supervision would be necessary for the protection of the public. Dr. Giovannello questioned whether or not a position such as chart reviewer would need to be supervised? Dr. Babitz stated yes. Dr. Weinstein indicated a supervisor or employer would be required, but that is different than supervising the practice. Dr. Lamb indicated Dr. Naylor should not be allowed to work in an unsupervised setting and boy scout physicals would not be accepted unless he can document physician supervision. Dr. Lamb made a Motion to have Dr. Naylor meet with the Board every three months, that he needs to submit the therapist report from Todd Olsen, and that he cannot count any hours

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since August 9, 2006 unless those hours were supervised by a physician. Dr. Babitz seconded the Motion. Discussion: Dr. Giovanniello stated that if Dr. Naylor finds a position reviewing charts, he won't have a medical doctor supervise him. Dr. Giovanniello questioned whether or not the motion needs to be amended to require supervision for direct patient care, if non-direct patient care, no supervision is needed. Dr. Babitz stated he likes the original motion and would rather have Dr. Naylor ask for an amendment instead of leaving it open-ended. Dr. Weinstein indicated that the work he has done would count toward the probation period if documentation was submitted that the work was supervised. All Board members in favor of the original Motion.

Dr. Bennion questioned how many hours per month are adequate to keep the probation going? Dr. Babitz stated the Board cannot place an hour number, but would make a determination based on the practice plan, the physician and the setting.

RANDAL ELLSWORTH, MD
PROBATION INTERVIEW:

Board members reviewed the evaluation from Dr. Etringer. Dr. Ellsworth has complied with the terms and conditions of the suspension and he requested that the suspension be terminated. He stated he is not sure where he will practice, but is looking at opening his own practice. He stated he attends AA/NA meetings on Thursday nights, but has not attended

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the PIR meetings. He stated when he returns to practice, he will see fewer patients than in his previous practice.

Board members reviewed the controlled substance report. Dr. Ellsworth indicated he was prescribed Suboxone for chronic pain, but he used it less than a week and flushed the rest.

Dr. Weinstein made the Motion to lift the suspension and place the license on probation. However, Dr. Ellsworth cannot begin to practice until he submits a practice plan for approval. Dr. Stout seconded the Motion. All Board members in favor.

STEVEN YEARSLEY, MD
TELEPHONE INTERVIEW:

Dr. Babitz conducted the interview. Dr. Yearsley indicated he will be taking the San Diego PACE course within the next 90 days. He indicated that the Nevada Board is looking at the Utah action and they will determine if any action is necessary on his Nevada license. Dr. Yearsley indicated his Board recertification will be due in 2008 and since his license is not considered full licensure, he will not be able to recertify. He questioned whether or not he could have the probation shortened before the recertification comes due. Dr. Babitz suggested he wait until February 2008 to make his request. If he is in compliance with the terms and conditions of the Order, the Board could consider the request.

REVIEW DRAFT OF LETTER TO
PHYSICIANS REGARDING OPIOID
PRESCRIBING:

Dr. Weinstein submitted the draft for Board review. Dr. Weinstein included the Federation of State Medical

Boards (FSMB) "Model Policy for the Use of Controlled Substances for the Treatment of Pain"; the UMA Policy Statement "Opioid Analgesics in End of Life Care"; the VA Guideline for Methadone Prescribing; information regarding web access to DOPL's Controlled Substance Data Base; and information from the pain and policy group from Wisconsin. Dr. Weinstein suggested the Board adopt the current Model Policy for the use of Controlled Substances from the FSMB. She indicated the alternative to the FSMB's Model Policy would be for the Board to rewrite their own policy. Dr. Weinstein stated the FSMB policy is thorough and she would not recommend trying to rewrite a policy. Board members questioned whether or not we can define what class the Opioids fall under. Dr. Weinstein stated that would not be necessary, but it could be clarified in the letter that will be sent out to prescribers.

Dr. Weinstein made a Motion to adopt the Federation of State Medical Boards (FSMB) "Model Policy for the Use of Controlled Substances for the Treatment of Pain", 2004 version. Dr. Babitz seconded the Motion. All Board members in favor.

Dr. Weinstein will continue to work on the letter and submit the changes for review next month. She indicated she will add the DEA interpretation of the 90 day rule. Dr. Weinstein indicated she would like the letter to be sent to all licensed physicians the first quarter of 2007.

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DAVID AUNE, MD
INTERVIEW:

Dr. Babitz conducted the interview. Dr. Aune and his wife, Cindy, met with the Board as required. Dr. Aune reported he recently had surgery, received a pain medication, but had his wife monitor his use of the medication. Dr. Aune reported he has been off work for the last four weeks because of his surgery, and will return to work today. He reported he has been attending 12-Step and PIR meetings. He submitted his controlled substance log and the prescriptions he has written. He reported he is doing well, feels good about recovery and has a positive attitude. He submitted a practice plan, but it does not indicate the number of hours he will work per week. Dr. Aune stated his contract is for 42-56 hours per week, with the average being 42 hours. Dr. Babitz made a Motion to accept the practice plan with the addition of working a minimum of 30 hours per week. Dr. Stout seconded the Motion. All Board members in favor.

DR. WEINSTEIN REPORT ON THE
MEETING WITH PLANNED
PARENTHOOD AND INTERNET
PRESCRIBING PROPOSAL:

Dr. Weinstein reported that three Board members, along with three members of the Pharmacy Board reviewed the Planned Parenthood proposal regarding internet prescribing of contraceptives. Dr. Weinstein indicated it was reported that 80% of the clinics serve uninsured 18-30 year olds. The discussion centered on risks and benefits and whether or not it would be appropriate to allow rural areas to receive prescriptions over the Internet. Dr. Lamb reported it was moved and approved at that meeting for a feasibility study or proposal be

completed and for a report back to the Committee before final approval would be granted. Dr. Babitz questioned how they would complete a physical exam? Ms. Baker indicated that the individual would receive a prescription without an initial exam; however, there was a decision tree that would be followed before the prescription was issued. Dr. Weinstein indicated that the process is almost the same as the approved company that prescribes Viagra over the Internet. Board members voiced concern with the Internet prescribing of Viagra and Ms. Baker indicated that a Consent Agreement was written with this company and went into effect in 2002. The Legislature reviewed the agreement in 2003 and 2004 and has continued to approve the consent agreement.

APPLICATIONS APPROVED BY THE
DIVISION:

Sebastian Kreitschitz, MD
Abraham Potolsky, MD
Jared Manning, MD
Amy Hurley, MD
Karen Danenhauer, MD
Faheem Akhtar, MD
Jonah Green, MD
Allyson Hart, MD
Jason Hicks, MD
Zachary Zarbock, MD
Bridget Burshears, MD
Alison Schiffern, MD
Thomas Lamirand, MD
Nathaniel Hall, MD
Valerie Coon, MD
Christopher Harker, MD
Vanessa Hadley, MD
Amanda Bauer, MD
Crystal Armstrong, MD
Cameron Peterson, MD

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Michael Khoury, MD
Michael Kenly, MD
Mary Anne Kovalak, MD
Luke Wilson, MD
David Cragun, MD
Matthew Duncan, MD
Rachel Cyrus, MD
Logan McLean, MD
Christopher Anker, MD
Andrew Talbott, MD
Roger Siddoway, MD
Peter Yarbrough, MD
Keri Gibson, MD
Jill McBride, MD
James Snyder, MD
Thomas Allerdine, MD
Katherine Schmidt, MD
Lorissa Segal, MD
Linsey Etherington, MD
Stanley Gardner, MD
Christian Agricola, MD
Brooks Keeshin, MD
Dan Kemper, MD
Philip Isenberg, MD
Anne Perry, MD
Bhavananda Reddy, MD
Katherine Lavender, MD
Mohamed Abdalla, MD
Christine Foster, MD
Daniel Jondle, MD
Chad Stewart, MD
Jessica Tam, MD
Victor Gonzalez, MD
Deborah Axelrod, MD
Kristina Tansavatdi, MD

GEORGE PINGREE, MD CHAIR

DATE

DIANA BAKER, BUREAU MANAGER

DATE

